1

AFD 41 File 62

App. F IX—4

19 65 (JKB)

File No. AFD 41

Serial Nos. FGL-62

Class — B

Previous References.

Agriculture & Forest Department.

Later References.

7th December — 64

THE MYSORE GOVERNMENT SECRETARIAT

Serial Nos.

~~Notings 10~~ Notings — 10

Corresponds: 30.

Part B for

SUBJECT

Assignement of land in S. No. 82 of Tipranal to Shri. Bhima Rao, Humnabad.

WD 010650—GPB—40,000—6-3-62

1/8/62 Forest
7/12/64

A
1/4/04

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಅರಣ್ಯ, ಪರಿಸರ ಮತ್ತು ಜೀವಿ
ಶಾಸ್ತ್ರ ಇಲಾಖೆ (ಅರಣ್ಯ-ಬಿ)

FOR/NOT FOR NOTE BOOK
UNDER SECRETARY
M. N. Ansari
Under Secretary to Govt.
11/5

Serial No.

O. No. 5939/62.

Repn of 28-7-62 of Bhima Rao to the M(f)

Minutes of M(f) —

1) "C.C.J. In view of the opinion of the tribunal very notifn may be sent to release the area of ten Acres in favour of the Applicant.

Stay is issued not to evict the occupant.

Id/- B.R
28/7

2) Accordingly a letter to C.C.J. is put up

CR
1/8/62 3/8

Draft may be approved

BR
1/8/62

DS

3) Issue & Submit to MF for perusal.

DS
2/8

S. Sampath
Dy. Secy. to G. of K. Dept.

DEPUTY SECRETARY TO GOVT
NO 1752-F
1-AUG 1962
AGRICULTURE & FOREST DEPTT.

Issued on 2-AUG 1962.

Note.—Contn. Sheet

File No. of 196 . Mysore Government Secretariat

Serial No.

4) Ref: para 3 n/f Supra. may be referred to M(F) for perusal

DR 3/8/62 D.S)

3/8/62

As directed, DF letter to the party is put up (p.6c)

DR 3/8 for perusal before issue

3/8/62

D/S)

3/8

Issued on 31 AUG 1962

3/8

Fo. perusal

3/8

Dy. Secy., A. & F. Dept.

M(F)

5) 6/8/62

D.S/DFS

6/8

DEPUTY SECRETARY TO GOVT. NO. 1778 - AUG 1962 AGRICULTURE & FOREST DEPTT.

C. No. 3258/63. 8/8/62

6) pld is for perusal. The CCF has reported that the Revenue Appellate Tribunal have set aside the order of the DC, Bidar cancelling the grant of land to the applicant & have remanded the case to the DC for disposal according to law. Now, the applicant in his

F. 1880/62 4/8/62

DEPUTY SECRETARY TO GOVT. NO. - AUG 1962 AGRICULTURE & FOREST DEPTT.

AFD 41 F Vol 62

ref^n of 28-7-62 has required to direct the DFO, Gulbarga not to interfere with the possession of the applicant over the land granted to him till the case is disposed of by the DC. Also, as directed by Govt, in L.L. of 2-8-62, further proceedings against the applicant has been stayed. The CCF feels that further action in the matter may be taken after the case is decided by the DC as per the directions of the Revenue Appellate Tribunal and also after the suit filed by the applicant ~~filed by~~ against the forest deptt., is disposed of by the Court.

x '2'.

7) However, as directed by Govt, in L.L. of 2-8-62 to send proposals for the release

of 10 acres in favour of the present Applicant, it is felt that it is not legal from the forest point of view, pending final decision of the F.S.O., Gulbarga.

Subd., for order.

CR
18/4
19/4

8) We have received another receipt from the office of the Minister yesterday. Pl. put up the same also.

BR
19/4/63

Repn. of Sri Bhima Rao to M(7).
D. No. 33346/63.

x 10 c/7

Minutes of the M(7) -

"S-477 - I remember to have issued a Stay and called for the records. If the same have been recd., the same may be put up for orders'

Id/- B.R.
10/4

The detailed facts of the case is as explained in para 6 onwards.

CR for order.
19/4

AFD 41 F Dec 62

Agriculture & Forest Deptt.
(Forest Section)
=====

10) The report from the C.C.F. which had been called for after issuing the Stay Order in respect of the land in S.No. 82 of Tiprant Village, Humnabad Taluka, Bidar District is for kind perusal(at pages 7 and 8 of c/f.). The petition received from the concerned party viz: Sri Bhima Rao S/o Thukaram, Resident of Kalyani, Taluka Humnabad is also placed in the file vide page 10 of c/f. The Minister has been pleased to note on the P.U.D. as follows:-

> "I remember to have issued a Stay and called for the records. If the same have been received, the same may be put up for orders.
>
> Intd. B.R. 10/4/63".

11) The connected papers are placed below.

12) It is seen from the report of the C.C.F. that the case has been remanded ~~through~~ by the Revenue Appellate Tribunal to the Deputy Commissioner, Bidar once again and that further action in the matter of release may be awaited pending disposal of the case by the D.C. and also to ~~suit a file~~ await the result of suit filed by the applicant against the Forest Department. It is seen from the enclosures sent with the present petition of Shri Bhima Rao that the D.C. has since decided the case(vide copy of the judgement dated 2-11-1962 placed in the file). From this it could be seen that the report of the C.C.F. has not taken cognisance of the latest position. It is also not clear whether the cases filed (civil as well as criminal) by the party have been disposed of in the respective courts. Hence, before taking further action, if agreed to, we may forward the present petition to the C.C.F. with a request to furnish an up-to-date report in this behalf to take a decision by Government

AFD 41 FGL 63

i) regarding vacating the Stay Order issued on 2-8-1962 by the Hon'ble Minister; and

ii) to release or otherwise the land asked for by the applicant taking into consideration the Judgement of the D.C. who has left the discretion to the Government.

DEPUTY SECRETARY TO GOVT. AGRICULTURE & FOREST DEPTT. NO. 2530 26 APR 1963

BR 26/4/63
(T.S.Ramaiya)
Under Secy.A&FD.

26.4.

DY.SECY.(A&FD)

AGRICULTURE & FOREST SECRETARY GOVERNMENT OF MYSORE No. 2292 26 APR 1963

SECRETARY (A&FD) 13) For kind perusal & orders

Y. C. HONNAIAYA,
Secretary to Government,
Agriculture & Forest Department.

THE MINISTER FOR FORESTS & FISHERIES BANGALORE No. F.1093/63 29 APR 1963

Minister for Forests 14) The results of the civil suit filed by the party in the Munsiff Magistrate Court Hunnabad may also be obtained along with a detailed note

BR 1/5/63
B. RACHAIAH,
Minister for Forests,
Fisheries and Sericulture.

AGRICULTURE & FOREST SECRETARY GOVERNMENT OF MYSORE No. ..... 3 - MAY 1963

SA 17)

MXQ
4.5

4.5

15) Please put up draft

BR
6/5/63

16) Off letter to c of w/r to para 14 n/7 is put up

CR
6/5/63. 2/5

Issue draft as revised.

BR
7/5/63 Issued on 7-5-63

Land - Hummabad 8

Mysore Government Secretariat | AFD File No. 41 Fbr of 1962 | [App. F. III 2

Serial No.

D. No. 4652/64.

26 c/7 17) The report of the CCF is self explanatory. The CCF has no objn to exclude the area in S. No. 82 of Tiprani from the forest. Hence the CCF has required orders of Govt. in order to exclude the area from reservation.

18) If the proposal of the CCF is agreed to, R.D. may pl. see for remarks before excln from of the area from the forest area.

C.W
Pl. bring up
8/3
14/10/64

19) OR

A&F Dept.-Forest B Section

8/x The judgement of the Divisional Commissioner in this case forwarded by the CCF is at page 20 c/f and may kindly be perused. The CCF has stated that

Note.—Contn. Sheet.

Land - Humnabad

AFD File No. 41 FGL 62 of 196

Mysore Government Secretariat

Serial No.

there is no objection to exclude an area of 10 acres from S.No.82 of Tiprant Village. He has also stated that the grant of this land in favour of the party will not lead in honey-combing or awakward boundary of the forest. The recommendation of the CCF may be accepted. (Ref Para 14 of N.7)

21/10/64
(T.S.RAMAIYA)
Under Secy.,A&FD.

SECRETARY(A&FD) This land may be granted 20

---

for Minister
23/10/64

21) Minister for Forests) The C.C.F's recommendation to release to Govt land in S.No 82 of Tiprant village in Hemnabad is accepted

25/10/64
B. RACHAIAH,
Minister for Forests,
Fisheries and Sericulture.

S.A.&F) (22) 31/10/64

(23) for 31/10/64

24) Off to. is put up

DR

26/XI/64 25) Draft may be approved. This is to accord sanction to exclude an area of 10 acres of land in Survey No. 82 of Tiprant Village

12/11

WD-010154—GPB—PZS—8,00,000—1-10-61

AGRICULTURE & FOREST DEPT. 6781 21 OCT 1964 GOVERNMENT OF MYSORE
DEPUTY SECRETARY TO GOVT. NO. 9563 21 OCT 1964 AGRICULTURE & FOREST DEPTT.
OFFICE OF THE MINISTER FOR FORESTS & FISHERIES No. F. 2031/64 26 OCT 1964 BANGALORE.
6781 27 OCT 1964

Land - Hemavathi 10

Mysore Government Secretariat

AFD 41 File No. FGL 60 of 196..

[App. F. III 2

Serial No.

from reservation.

DEPUTY SECRETARY TO GOVT. AGRICULTURE & FOREST DEPTT. 28 NOV 1964 No. 40510

D.S.

JR 28/11/64 (T. S. RAMAIYA) Under Secretary to Government Agriculture & Forest Department

28/11/64

(SYED BASHEER AHMED)
Deputy Secretary to Government,
Agriculture and Forest Department.

9
Done

JR 28/11/64
(T. S. RAMAIYA)
Under Secretary to Government
Agriculture & Forest Department

7-12-64

7/12/64

Note.—Contn. Sheet

AD 41 PGL 62 11

Forest & Fisheries

OFFICE OF THE MINISTER FOR AGRICULTURE & SOCIAL WELFARE
No 210
30/7/62

The Hon'ble Minister for Forest,
Government of Mysore,
Vidhana Soudha,
Bangalore-1.

MYSORE GOVERNMENT SECRETARIAT
NO. 5939
1 - AUG 1962
FOREST BRANCH

(1)

Respected Sir,

Sub: Assignment of land to the extent of ten acres in Survey No. 82 situated in Village Tipkant Taluka Humanabad District Bidar.

I submit the following for your honours kind consideration and necessary orders. The facts of the case are that this petitioner domes from Backward Community of Dhangar and is a land less man. In the year 1951 this petitioner was given one year loani basis ten acres of land in S.No.82 situated in Village Tipkant, Taluka Humanavad, District Bidar. Afterwards as per existing practice and rules after observing all formalities, patta of ten acres in the said land was granted to me. The total area of S.No. 82 as per Revenue Office records is 382 acres 15 guntas out of this only 10 acre patta was granted in my name. I am in continuous possession over the said land since 1951 to till now. But in the year 1961, the Deputy Commissioner Bidar as per the letter of the Divisional Forest Officer, Gulberga, and the letter of the Forest Range Officer, Bidar, cancelled the order of patta granted to me. Against the cancellation of patta orders by Deputy Commissioner Bidar, this petitioner filed an appeal before the Mysore Revenue Appellate Tribunal Bangalore who after the hearing allowed the Appeal and remanded the case to be disposed of according to Law- Acopy of the judgement of Mysore Revenue Appellate Tribunal Bangalore in Appeal No.661n of 1961 H.L.R. dated 17-10-1961 is enclosed herewith.

The ten acres granted out of Total 382 acres of land in S.No.82 form(c)piece of land in a cornery of the said Survey Number. This ten acres of land is not included in the area of 350 acres notified by the Forest Department. I am a poor Backward Community Agriculturist and cultivating the said ten acres of land which is only my source of living.

The Forest Range Officer, Bidar and his sub-ordinates have been teasing the petitioner unnecessarily. Many a time they have destroyed the standing crops of the petitioner and now and then threaten him to do away with his possession. The petitioner does not feel safe at their hands. They ought to have kept silent till the Deputy Commissioner gives his decision as directed by the tribunal.

Requested that in view of the above facts, order to the Forest Range Officer, Bidar, and Divisional Forest Officer Gulberga, be directed not to interfere with the possession of the petitioner directly or indirectly, over the piece of land of ten acres in S.No.82 in Tipkant, Taluka Humanabad, District Bidar.

Dated 28-7-1962

PETITIONER.

Bhima Rao S/O Tukaram Dhangar,
Agriculturist, Kalyani Taluk
Hommabad, District Bidar.

FOREST DEPT. (TAPPAL SECTION)
23 JUL 1962

In view of his opinion go to tribunal necessary be sent

not to release this area in favour the applicant

BN 28/7/62

say is issue not to interfere to occupy

BN 28/7

Sir C. Today

2/8

BEFORE THE MYSORE REVENUE APPELLATE TRIBUNAL, BANGALORE
The Seventeenth day of October,1961.
Appeal 661 of 1961 (H.L.R).

(2)

Present:-

1. Shri R. Srinivasan, .. Chairman.
2. Shri N.S. Ramachandra, .. Member.

Bhimrao, son of Tukaram,
Dhangar, 29 years,
Agriculturist, Patwari,
Resident of Kalyani,
Taluk Homnabad,
District Bidar. .. Appellant

(By Sri. A. Puranik by Shri V. Deshpande)

Vs.

The State of Mysore .. Respondent.

(By Shri B. Seetharaman).

Subject:- Appeal against the order of the Deputy Commissioner, Bidar, in File No.37/11/1957, Jamabandi, R.No.1166/1960 dated 30-6-1961, regarding grant of land in S.No.82 of Tiprant village.

--:ooOoo:--

Per Shri R. Srinivasan

JUDGMENT.

This is an appeal under section 158 of the Hyderabad Land Revenue Act, 1317 F., against the orders of the learned Deputy Commissioner, Bidar, in File No. 37/11/1957,Jamabandi, R.No. 1168/1960, dated 30-6-1961.

2. The facts of the case, briefly stated, are as follows:- We find from the records of the case that the appellant was in possession of the land, which is part of S.No.82 (Gairan) in Tiprant village, Homnabad Taluk, since 1952, on Eksal Kasht under the Laoni, Rules, with the permission of the Tahsildar in his No. L.1719 dated 19-6-1951, and paying savoi Jamabandi, on the proposal of the Tahsildar, the learned Deputy Commissioner Bidar, assigned 10 acres of land out of this S.No. under circular No. Rd 56-LGA-57 dated 26-9-1959, on 21-10-1959, in his proceedings No. 33/11/58-59. On 4-3-1960 the Tahsildar issued a certificate No.55 in Form "C", granting 10 acres of land out of this S.No., without any upset price under Special Laoni. Phode of the land was also completed by the Land Records Officer. On 22-9-1960, the Divisional Forest Offier, Gulbarga, addressed a letter to the Deputy Commissioner, Bidar, stating that it was reported by the Forest Range Officer,Bidar, that land from S.No. 82 of Tiprant was recently assigned by the Deputy Commissioner for cultivation, and that S.No. 82 of the village has been declared under section 29 of the Hyderabad Forest Act of 1355 F., through H.R.D. letter No. 707 dated 23-5-1955 and is declared under section 30 through R.R.D.letter No.258 dated

Contd. 2/-.....

13
(3)

9-11-1955, and that any assignment from S.No.82 would not be legal and he, therefore, requested the Deputy Commissioner to revoke his order of assignment. On 19-5-1961, the Forest Range Officer, Bidar, addressed a letter to the Deputy Commissioner, stating that the Forest Department has taken up afforestation of 200 acres in Tiprant Forest Block, that this Block was notified under sections 29 and 30 of the Hyderabad Forest Act, that the appellant filed a petition in the Munsiff's Court at Homnabad and got an injunction order for stopping afforestation work, on 17-6-1961, and that on account of the injunction order - obtained from the Munsiff's court, the Department was not in a position to carry out the seasonal works in the Forest Block in the village, relating to afforestation. He, therefore, - requested the Deputy Commissioner, to revoke the order of assignment of any land in the Forest Block. On the representation of the the Divisional Forest Officer, the learned Deputy Commissioner, in his order dated 30-6-1961, cancelled his earlier order of assignment of the land to the appellant, on the ground that the Forest Department was not consulted before assignment, and that the Divisional Forest Officer had explained that he was not prepared to release, or recommend to his Department, as he did not want the area to be reduced.

3. Heard the learned counsel on behalf of the appellant and the learned State Representative. After considering the arguments advanced before us and going through the records of the case, we are of the view that the order of the learned Deputy Commissioner should be set aside, and the case remanded to him for fresh hearing and disposal according to law. We give below the reasons for arriving at this conclusion.

4. Two points were urged before us on behalf of the appellant. The first contention was that the court below had no jurisdiction to cancel the grant made under "C" Certificate, except in case of a breach of any one of the conditions specified in the said Certificate, that there was no breach of any condition in this case and that according to the terms of the said grant, the Deputy Commissioner must give three months' notice to the grantee (the appellant), before taking any action against him, and as such the order of the learned Deputy Commissioner impugned before us, was without jurisdiction. The second point urged before us was that the court below materially erred in treating the land as protected Forest land, that the Pahni extracts from 1958 to 1960 show the land as "Parampoke" land and that the Tiprant protected forest area does not cover the portion of S.No. 82, (granted to the appellant) as the total area of the reserved forest land os only 350 acres and 2 guntas, whereas S.No.82 is 382 acres and 15 guntas in extent, and that the Gazette Notification dod not abridge, or effect, the then existing rights of the appellant.

5. Regarding the first contention, we find from the records of the case that the appellant was not given notice by the learned Deputy Commissioner before the grant was cancelled by him. One of the conditions contained in the Certificate No.55, dated 4-3-1961, relating to this land grant under Special Laoni is "the land granted will be resumed on account of breach of any of the above conditions and because of the grantees' failure in complying with them within three months of service upon him of a notice from this Office."But, no breach of this, or of any other condition in the Land Grant Certificate is shown to have occured. Also, we find from the Deputy Commissioner's letter to the Divisional Forest Officer, dated 24-10-1960, that the appellant was in continuous possession of the land since 1951-52,

Contd. 3/-.....

prior to the declaration of the S.No. 82 as forest area, in 1955, and be continued to be in possession of the land even after that declaration. We also find from the site plan that the area assigned to the appellant lies in a corner of the said S.No. According to Government Circular No.33 of 1954, the Divisional Forest Officer should have expressed his opinion within two months, after the reference is made to him, regarding the assignment of land for cultivation purposes. We find in this case, the Tahsildar addressed the Divisional Forest Officer on 11-1-58, and in spite of two reminders from the Tahsildar, no reply was received by him from the Divisional Forest Officer till October 1959.

6. Regarding the second contention urged on behalf of the appellant that the area of S.No.82 is 382 Acres 15 Guntas and that the Gazette Notification of 1955 declares only an area of 350 acres-02 guntas as protected forest and that it does not cover the portion of the land granted to the appellant by the learned Deputy Commissioner, we find that the records of the case do not contain the Gazette Notification relating to the declaration of this S.No. under section 30 of the Hyderabad Forest Act of 1355 F., relied upon by the appellant. Records of the case do not disclose also whether only an area of 350 acres 02 guntas was notified as protected forest area out of this S.No., which is stated by the appellant to measure 382 acres 15 guntas. Apparently, the learned Deputy Commissioner has not looked into the site plan of the Forest Block, fixing the boundaries of the land in this S.No. declared as protected forest area, and he has not ascertained whether this area of 10 acres assigned to the appellant in S.No.82 stands included in the area notified in the Gazette by Government, or whether it is outside the notified area. We are not in a position to give a finding in respect of this contention of the appellant, since neither the relevant Gazette Notification, nor the site plan of the notified Forest Block, nor particulars of the situation of the land granted to the appellant under Circular RD 56 LGA 57 dated 26-9-1959, are available in the records of the case. So, we are left with no alternative but to set aside the order of the learned Deputy Commissioner, dated 30-6-1961, and remit the case back to him for fresh consideration and disposal according to law, after hearing the appellant in the matter, and in the light of the observations made by us above. Appeal is allowed and case remanded.

Dictated to the stenographer, typescript edited and then pronounced in the open court this the seventeenth day of October, 1961.

-.-

Sd/-
(N.S. Ramachandra),
Member.

Sd/-
(R. Srinivasan),
Chairman.

-:(0):-

M. G. S. App. F VI—G. 2]

15

SUBJECT .....

Diary No. of letter replied to.....

Section

Serial No.

File No.

Mysore Government Secretariat

( )

the 196 .

Proceedings of the Government of Mysore

Date of Issue..... Issued 2-AUG 1962

Signed by.....

May this be—

(i) printed?

(ii) treated as a Standing Order?

(iii) published in the Gazette, English Part?

(iv) translated?

(v) placed at the disposal of the Press?

(vi) published in the Gazette, Kannada Part?

Read—

Order thereon.—No.

Sir,

I am directed to enclose ~~herewith~~ a copy of Repn from Bhimappa Rao, to the Hon'ble M(f) on 28-7-62, along with Encls: and ~~I am directed to state~~ ~~directed~~ to state that in view of the opinion of the tribunal, new proposals ~~Not of Repn~~ may be

Sent for the release of an Area of 10-00 in S. No. 82 of Tiprani ~~Tq.~~, village, Humnabad Tq., Bidar Dt., Also, further proceedings for the eviction of the occupants may be stayed ~~till~~ pending further order of Govt.

4/7

4/7 S. for A List of Enclosures.

Copy to - C.E, Rgm with a copy of the Repn referred to above along with a copy of Encl. He is required to take further action in the matter

Copied by

Examined by

@R
1/8/62

3/8

17
5(a)

GOVERNMENT OF MYSORE

No.AFD 41 RGL 62

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

Dated, Bangalore, 21.8. 1962

FROM

The Secretary to the Government of Mysore,
Agriculture & Forest Department,
Bangalore.

To

The Chief Conservator of Forests in
Mysore, Bangalore.

Sir,

I am directed to enclose a copy of representation from Bhimappa Rao to the Honourable Minister for Forests on 28th July 1962 along with enclosures and to state that in view of the opinion of the tribunal, necessary proposals may be sent for the release of an area of 10-0-0 A-G-A. in S.No.82 of Tiprant village, Humnabad Taluk, Bidar District. Also further proceedings for the eviction of the occupants may be stayed pending further orders of Government.

Yours faithfully,

Sd/-
(T.S. Ramaiya)
Under Secretary to Government,
Agriculture & Forest Department.

Copy to the Conservator of Forests, Belgaum with a copy of the Representation referred to above along with a copy of enclosure. He is requested to take further action in the matter.

T.S. Ramaiya
(T.S. Ramaiya)
Under Secretary to Government,
Agriculture & Forest Department.

Issued
21/8

KTK/2

18 (6)

Appendix F. G.—1]

SUBJECT: D.L.C.(7)

Diary No. of letter replied to .....

Mysore Government Secretariat.

( )

the 195 .

Issued

Date of issue 3 - AUG 1962

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. AED 41 FDL 62

To

3 - AUG 1962

Bhima Rao,
S/o Tukaram Dhangar
Agriculturist,
Kalyani Tq

Sir, w/r to your Rep. dt 28-7-62, on the above Sub-Ject, I am directed to state that Stay order has been issued not to evict the occupant, for the present.

U/7
for
U/S A F F

Copy to cc of in continuation
of HL of wem no. 17 2-8-62
for info.

20

No.B3- 62- GFL-505/62-63

Chief Conservator's Office,
Bangalore, dated 11-4-1963.

To

The Secretary to Government,
Agriculture and Forest Department,
Bangalore.

Sir,

Sub:-Assignment of 10 acres of land in S.No.82 of Tiprant to Sri Bhim Rao of Kalyani, Taluka Humnabad.

--

Ref:-Your letter No.AFD 41 FGL 62 dated 2-8-1962.

--

I enclose herewith a copy of letter No.Sy.B. 147/30/54 dated 20-2-1963 from the District Forest Officer, Gulbarga along with its accompaniment on the above subject for perusal.

The Revenue appellate Tribunal in their order dated 17-10-1961 have set aside the order of the Deputy Commissioner, Bidar cancelling the grant of land to the applicant and have remanded the case to the Deputy Commissioner, for disposal according to law. Now the applicant has requested to direct the District Forest Officer, Gulbarga not to interfere with the possession of the applicant over the land granted to him till his case is disposed of by the Deputy Commissioner. According to the directions of Government further proceedings against the applicant have been stayed. Further action in the matter may be taken after the case is decided by the Deputy Commissioner as per the directions of the Revenue Appellate Tribunal and also after the suit filed by the applicant against the Forest Department is disposed of by the ~~Government~~ Court.

Yours faithfully,

10/4

Chief Conservator of Forests.

AS/10/4(4)

Copy of letter No.Sy.B.147/30/54 dated 28th February 1963 from the Divisional Forest Officer, Gulbarga to the Chief Conservator of Forests in Mysore, Bangalore.

Sub:-Assignment of land to the extent of ten acres in Sy. No.82 Tiprant Block.
Ref:-Your letter No.B3- 62/GFL/505/62 dated 17-8-1962
-do- 23-1-1963.

With reference to the above subject, I have to report that the Range Officer Bidar has reported to this office through his No.Sy.B.319/53-54 dated 28-11-1962 that Sri Bhim Rao S/o Tukaram Patwari and others were booked under forest Act for illicit cultivation in Tiprant Block Bidar Range of Gulbarga Division. A copy of the Range Officer's report No:Sy.B. 319/53-54 dated 28-11-1962 is submitted herewith.

In this connection I beg to submit that the whole of S.No. 82 of Tiprant village, which has an extent of 350 acres 2 guntas is a Gairan. This block has already been notified under Sec. 29 of Hyderabad Forest Act through the Gazette dated 17-11-1955 Sri Bhimrao, being a patwari perhaps misrepresented and got the assignment order, during 1959, but it was cancelled by the Deputy Commissioner, Bidar when it was brought to the notice of the Deputy Commissioner, Bidar that the order was not legal.

Moreover, this Sri Bhim Rao had filed a civil suit against the Government subordinates (i.e Forest Department) The case is pending in the Munsiff Magistrate Court, ~~Humnabad~~ Humnabad District, Bidar.

Sri Bhim Rao has appealed to the Revenue Tribunal Bangalore and also has argued that he has given 10 acres of land in Sy.No.82 Gairan Tiprant village which measures 382 acres 15 guntas. This is quite incorrect as incorrect records were exhibited and mis-representation were made.

The Session Judge, Bidar has given a decision that the Forest Department should have evicted Sri Bhim Rao Patwari as per law.

As the land is in illegal possession of Sri Bhim Rao and as injunction order of the court is made permanent, the land is left in possession of Sri Bhim Rao and the case is pending in the Munsiff Magistrate Court Humnabad District. Bidar.

Under Section 4 of Hyderabad Forest Act, the draft notification was sent to the Deputy Commissioner, Bidar. After sanction by the Government the claims will be enquired into by the Forest Settlement officer Gulbarga. Till such time nothing can be done and it is not legal to send the proposals for release of 10 acres of land pending final decision of Forest Settlement Officer, Gulbarga.

Copy of letter No.Sy- B.319/53-54 dated 28-11-1962 from the Range Forest Officer, Bidar addressed to the Divisional Forest Officer, Gulbarga.

Sub:-Assignment of land to the extent of ten acres in Sy.No. 82 Tiprant Block.
Ref:-D.F.O's No.D.O. Sy.B. 147/30/54 dated 23-11-1962.

In obedience to the above I submit as follows:-

One Bhim Rao S/o Tukaram Patwari and others were booked under Forest Act for illicit cultivation in Tiprant Block.

PTO

In this connection I beg to submit that the whole survey number 82 which is an extent of 350 acres 2 guntas was constituted as protected forest under section 29 of Hyderabad Forest Act and section 30 was also notified and notices were also served evicting the cultivators. But the said Bhim Rao being a Patwari on misrepresentation got assignment order 1959, but it was cancelled by the Deputy Commissioner, Bidar when it was brought to the notice of the Deputy Commissioner, that the order is not legal.

Meanwhile the said Bhim Rao has filed a civil and criminal suites against the Government and the subordinates. The cases are pending in Munsiff Magistrate Court Humnabad.

The Bhim Rao appealed revenue tribunal and also argued saying that he was given 10 acres of land in Sy.No.82 which measures 380 acres 50 guntas. This is quite false. As false records were exhibited and misrepresentation were made and as no correct information regarding Forest Department notification and other things were made available in the arguments by the Deputy Commissioner, Bidar, before Revenue Tribunal Bangalore the case was remanded and all the files were sent to the Deputy Commissioner, Bidar for reconsideration. The copy of the judgment is enclosed. By the ~~way~~ by I submit that the Session Judge Bidar has given a decision that the department should have evicted him (Bhim Rao) as per law.

As the land is in illegal position of the said Bhim Rao, and as injunction orders of the Court is made permanent the land ~~is left~~ in possession of Bhim Rao and the cases are pending in the Munsiff Magistrate Court Humnabd.

Section 4 notification was sent to the Deputy Commissioner, and after notifying it in the Gazette, the claims will be enquired by the Forest Settlement Officer. Till such time nothing can be done and it is not legal to send the proposals for release of 10 acres of land pending final decision of Forest Settlement Officer.

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Copies

Chief Conservator of Forests.

SATE

presented by Sri Prabhakar Rao

I remember to have issued a slay [illegible] called for the records of the same have been received maybe put up for order

BSL 10/4/63

(10)

To

The Hon'ble Minister for Forests,
Government of Mysore,
Bangalore.

Sir,

Sub:- Assignment of 10 acres of land on permanent patta basis from out of Survey No.82, measuring 382 acres 15 guntas, situated at Tiprand village, Taluk Humnabad, District Bidar, for the last 12 years i.e. since 1951.

The petitioner belongs to the Kuruba Caste which is a Backward Class.

That the petitioner does not have any other land in his possession except the one mentioned above and has to maintain a family of 8 persons.

That the petitioner, on account of his continued long possession, was granted this land on patta basis by the Deputy Commissioner, Bidar and a certificate No.55 was issued in Form 'C' was issued to him on 4-3-60.

That on the representation of the Forest Range Officer, Bidar to the Deputy Commissioner, Bidar that this land fell in the reserved forest area and so no assignment could have been made by the Deputy Commissioner of the Forest land, the Deputy Commissioner revoked his earlier order and cancelled the assignment on 30-6-61.

That against the orders of the Deputy Commissioner mentioned above in the above para, the petitioner went in appeal to the Mysore Revenue Appellate Tribunal Bangalore which on 17-10-61 set aside the order of the Deputy Commissioner and sent the file back to the Deputy Commissioner for fresh enquiry and for compliance of the procedural law.

That the Deputy Commissioner, Bidar gave his fresh judgement on 2-11-62 in which he has said that as the whole Survey No.82 has been shown in the Revenue Records since 1955 as forest land, it is up to the Forest Department "to allow him to cultivate the portion he wants to occupy i.e. about 10 acres on the Southern boundaries of this Survey Number".

That in view of the longstanding possession of the petitioner a compassionate view be taken of the matter and the petitioner may be assigned the land in question by the Forest Department itself.

Hence it is prayed that your honour may be pleased to pass suitable orders to the effect that the Southern portion of land S.No.82 measuring about 10 acres in village Tiprand, Taluka Humnabad, District Bidar may be assigned permanently to the petitioner. Copies of the references mentioned above are enclosed herewith.

Yours faithfully,

Petitioner.
Bhima Rao S/o Thukaram,
Resident of Kalyani,
Taluk Humnabad,
Dist.Bidar.

OFFICE OF THE MINISTER FOR FORESTS & FISHERIES
No. P. 1/M-6
17 APR 1963
BANGALORE

MYSORE GOVT. SECRETARIAT
17
16 APR 1963
LABR. & FOREST DEPT. (APPAL. SECTION)

MYSORE GOVERNMENT SECRETARIAT
No. 3346/63
18 APR 1963
FOREST BRANCH

IN THE COURT OF THE DEPUTY COMMISSIONER BIDAR.

File No. 33/11/58-59

PETITIONER: Bheemrao s/o Gukeram, r/o Kalyani.

Subject: Illegal eviction of the petitioner from his lawful possession from the land S.No.82 situate at Tiprant, taluq Homnabad.

OFFICE OF THE COMMISSIONER DIST. BIDAR

ORDER:

This is a case which has been remanded by the Mysore Revenue Appellate Tribunal directing that the parties should be heard and the case be decided as per law. I have heard the arguments of the counsel for the appellant and also the Range Officer, Forest Department.

S.No. 82 of Tiprant village is a gairan land originally with an area of 382 acres, 15 guntas in extent. The petitioner Bari Bhimrao cultivated a portion of this S.No. might be about 10-20 acres, seven to eight years ago, firstly with permission and later on without permission, for a year or two. The records reveal that an area of 350 acres, 2 gts has been notified and included in the Reserve Forest area out of this S.No. 82. But when the petitioner gave an application for assignment, the Tahsildar referred the matter to the Forest Department and since no reply was received from the Department for a long period, he recommended the case for assignment. On that basis, an area of ten acres was finally assigned to him as he belongs to a backward classes. Later on, on a representation from the Forest Department, that this is a notified area included in the reserve-forest, the assignment orders were cancelled on the ground that this is not a government area belonging to the Revenue Department as it is already in the possession

Name of applicant	Shiva [illegible]
Date of application	14-11-62
Date of preparation	19-11-62
Date of issue	
Total words	written one thousand
Copying fee	4-50
Paper cost	0-6
	4-56

OFFICE OF THE DEPU
DIST BID

of the Forest Department. The counsel for the petitioner contends that the total area being 382-15 gts., of this survey number the area notified or taken by the Forest Department is only 350 actes 2 guntas as per records. There still remains an area of about 30 acres under the Revenue Department and out of this, the assignment of 10 acres could be made. But as pointed out by the Range Officer, although the figures are correct, but the balance of 32 acres appears to have been assigned by the Jagir authority and two survey numbers have also been created which actually measure the balance area. Thus, now in that S.No. 82, there is no area other than the area notified and occupied by the Forest Department i.e. 350 acres 2 guntas only. Records further show that the petitioner is not in continuous possession. He has been cultivating now and then. The Department has been evicting him. Again he has approached the Forest Department several times and now finally this was assigned under the impression that this was a government land under the Revenue Department. Since it is a fact that from 1955 onwards it is not a government land under Revenue Department but is a reserved forest area, I have no powers to assign any portion out of this land without the explicit permission from the Department concerned. It is true that the Department also was not careful enough to reply to the Tahsildar in due time. But since the Forest Department has taken ~~action~~ already the entire area of the survey number, even if the Department does not reply, it cannot mean that it becomes the land fit for assignment by the Revenue Department. Hence I am of the opinion that there is no land here for assignment and I cannot assign any land out of this survey No. 82, which is only 350 acres at present,

to the petitioner. The petitioner cannot be assigned any land by me as there is no Government land under Revenue Department in S.No. 82 gairan, and nor is his possession continuously established without break.

As per the plan of this land, his possession appears to be not in the middle but towards the boundaries on the southern side, adjacent to S.Nos 131 and 130. If the Forest Department is willing to part with that land to an extent of small portion of about ten acres, from out of S.No. 82, I do not think there will be any harm. Since he ~~xxx~~ belongs to backward class and has been cultivating this portion now and then, though without permission, I feel that his application deserves consideration by the Forest Department to allow him to cultivate the portion he ~~wants~~ to occupy~~xxx~~ i.e. about ten acres on the southern boundaries of this survey No. and this may not interfere in this big block of S.No. 82 in its management of the forest growth.

Typed to dictation and pronounced in the open court this 2nd day of Nov.,1962.

Sd/-

Baswappa Alur B.A.
Deputy Commissioner,
Bidar.
2-11-62

True copy.
Recd 24/11/62
Keeper.

BEFORE THE MYSORE REVENUE APPELLATE TRIBUNAL, BANGALORE
The Seventeenth day of October, 1961.
Appeal 661 of 1961 (H.L.R).

Present:-

1. Shri R. Srinivasan, .. Chairman.
2. Shri N.S. Ramachandra, .. Member.

Bhimrao, Son of Tukaram,
Dhangar, 29 years,
Agriculturist, Patwari,
Resident of Kalyani,
Taluk Homnabad,
District Bidar. .. Appellant

(By sri. A.Puranik by Shri V. Deshpande)

Vs.

The State of Mysore .. Respondent.

(By Shri B.Seetharaman).

Subject: Appeal against the order of the Deputy Commissioner, Bidar, in File No.37/11/1957, Jamabandi, R.No.1168/1960 dated 30-6-1961, regarding grant of land in S.No.82 of Tiprant Village.

- 0 -

Per Shri R. Srinivasan

JUDGEMENT.

This is an appeal under section 158 of the Hyderabad Land Revenue Act, 1317 F., against the orders of the learned Deputy Commissioner, Bidar, in File No. 37/11/1957, Jamabandi R.No. 1168/1960 dated 30-6-1961.

2. The facts of the case, briefly stated, are as follows:-

We find from the records of the case that the appellant was in possession of the land, which is part of S.No.82 (Gairan) in Tiprant Village, Homnabad Taluk, since 1952, on Eksal Kasht under the Laoni, Rules, with the permission of the Tahsildar in his No. L.1719 dated 19-6-1951, and paying sayoi Jamabandi, Bidar, assigned ten acres of land out of this S.No. Under circular No. RA 56-LGA-57 dated 26-9-1959, on 21-10-1959, in his proceedings No.33/11/58-59. On 4-3-1960, The Tahsildar issued a certificate No.55 in Form "C", granting 10 acres of land out of this S.No., without any upset price under Special Laoni. On 22-9-1960, the Divisional Forest Officer, Gulbarga, addressed a letter to the Deputy Commissioner, Bidar, stating that it was reported by the Forest Range Officer, Bidar, that land from- S.No.82 of Tiprant was recently assigned by the Deputy Commissioner for cultivation,

Contd.,

and that S.No.82 of the village has been declared under Section 29 of the Hyderabad Forest Act of 1355 F., through H.R.D. Letter No. 707 dated 23-5-1955 and is declared under section 30 through R.R.D.letter No.258 dated 9-11-1955, and that any assignment from S.No82 would not be legal and he, therefore, requested the Deputy Commissioner to revoke his order of assignment, On 19-5-1961, the Forest Range Officer, Bidar, addressed a letter to the Deputy Commissioner, a stating that the Forest Department has taken up afforestation of 200 acres in Tiprant Forest Block, that this Block was notified under sections 29 and 30 of the Hyderabad Forest Act, that the appllant filed a petition in the Munsiff's Court at Homnabad and got and injuction order for stopping afforestation work, on 17-6-1961, and that on account of the injection order- obtained from the Munsiff's Court, the Department was not in a position to carry out the seasonal works in the Forest Block in the village, relating to afforestation. He, therefore, requested the Deputy Commissioner, to revoke the order of assignment of any land in the Forest Block. On the representation of the Divisional Forest Officer, the learned Deputy Commissioner, in his order dated 30-6-1961, cancelled his earlier order of assignment of the land to the appellant, on the ground that the Forest Department was not consulted before assignment, and that the Divisionla Forest Officer had explained that he wasnot prepared to release, or recommend to his Department, as he did not want the area to be reduce.

3. Heard the learned counsel on behalf of the appellant and the learned State Representative. After considering the arguments advanced befo e us and going through the records of the case, we are of the view that the order of the learned Deputy Commissioner should be set aside, and the case remanded to him for fresh hearing and disposal according to law. We give below the reasons for arriving at this conclusion.

-2-

4. Two points were urged before us on behalf of the appellant. The first contention was that the court below had no jurisdiction to cancel the grant made under "G" Certificate, except in case of a breach of any one of the conditions specified in the said Certificate, that there was no breach of any condition in this case and th t according to the terms of the said grant, the Deputy Commissioner must give three months' notice to the grantee (the appellant), before taking any action against him, and as such x the order of the learned Deputy Commissioner impugned before us, was without jurisdiction. The second point urged before us was that the court below materially erred in treating the land as protected forest x land, th t the Pahni extracts from 1358 to 1960 show the land as "Parampoke" land and that the Tiprant protected forest area does not cover the portion of S.No. 82, (granted to the appellant) as the total area of the reserved forest land is only 350 acr s and 2 guntas, whereas S.No82 is 382 acres and 15 guntas in extent, and that the Gazette Notification did not abridge, or effect, the then existing rights of the appellant.

5. Regarding the first contention, we find from the records of the case th t the appellant was not given notice by the learned Deputy Commissioner before the grant was cancelled by him. One of the conditions contained in the Certificate No.55, dated 4-3-1951, relating to this land grant under Special Laoni is "the land granted will be resumed on account of breach of any of the above conditions and because of the grantees' failure in complying with them within three months of service upon him of a notice from this Office." But, no breach of this, or of any occured. Also, we find from the Deputy Commissioner's letter

contd.,

to the Divisional Forest Officer, dated 24-10-1960, that the appellant was in continuous possession of the land since 1951-52, prior to the declaration of the S.No.82 as forest area, in 1955, and be continued to be in possession of the land even after that declaration. We also find from the site plan that the area assigned to the appellant lies in a corner of the said S.No According to Government Circular No.33 of 1954, the Divisional Forest Officer should have expressed his opinion within two months, after the reference is made to him, regarding the assignment of land for cultivation purposes. We find in this case, the Tahsildar addressed the Divisional Forest Officer on 11-1-58, and in spite of two reminders from the Tahsildar, no reply was received by him from the Divisional Forest Officer till October 1959.

6. Regarding the second contention urged on behalf of the appellant that the area of S.No.82 is 382 Acres 15 Guntas and that the Gazette Notification of 1955 declares only an area of 350 acres-02 gunas as protectdd forest and that it does not cover the portion of the land granted to the appellant by the learned Deputy commissioner, we find that the records of the case do not contain the Gazette Notification relating to the Forest Act of 1355, Section 30 of the Hyderabad Forest Act., relied upon by the appellant. Records of the case do not disclose also whether only an area of 350 acres 02 guntas was notified as protected forms forest area out of this S.No., which is stated by the appellant to measure 382 acres 15 guntas. Apparently, the learned Deputy Commissioner has not looked into the site plan of the Forest Block, fixing forest boundaries of the land in this S.No.declared as protected forest area, and he has not ascertained whether this area of 10 acres assigned to the appellant in S.No82 stands included in the area notified in the Gazette Notification by Govt., or whether it is outside the notified area. We are not in a position to give a finding in respect of this contention of the appellant, since neither the relevant Gazette Notification, nor the site plan of the notified Forest Block, nor particulars of the situation of the land granted to the appellant under Circular RD 56 LGA 57 dated 26-9-1959, are available in the records of the under of case. So, we are left with no alternative but to set aside the order of the learned Deputy Commissioner, dated 30-6-1961, and remit the case back to him for fresh consideration and disposal according to law, after hearing the appellant in the matter, and in the light of the observations made by us above. Appeal is allowed and case remanded.

Dictated to the stenographer, typescript edited and then pronounced in the open court this the seventeenth day of -- October, 1961.

-0-

Sd/- (N.S.Ramachandra),
Member.

Sd/- (R.Srinivasan),
Chairman.

31

GOVERNMENT OF MYSORE

No. AFD 41 FGL 62

MYSORE GOVERNMENT SECRETARIAT,
VIDHANA SOUDHA,

Dated, Bangalore, ... 196 .

FROM

The *Secretary to the Government of Mysore,*

Agriculture and Forest Department.

To

The Chief Conservator of Forests in Mysore,
BANGALORE.

Sir,

Subject:- Assignment of land to the extent of ten acres in S.No.82 situated in Village Tiprant, Taluka, Humanabad Distt.Bidar.

=====

With reference to the correspondence ending with your letter No. B3-62-GFL-505/62-63 dated 11-4-1963, on the subject mentioned above, I am directed to state that it is ~~is~~ since learnt that the Deputy Commissioner, Bidar, to whom the case has been remanded by the Revenue Appellate Tribunal has since passed orders in this case. I am therefore to request you to send a report taking into consideration the latest orders.

In your letter cited above, you have indicated that the party has filed suits against the department in Munsiff-Magistrate's Courts. The results of these Civil suits may also be obtained and sent along with your detailed report.

Yours faithfully,

7/5/63
(T.S.Ramaiya)
Under Secretary to Government,
Agriculture and Forest Department.

Issued
7/5

RN.
7/5/63

32

C.F. No. 45]

GOVERNMENT OF MYSORE

Tele gram / phone

OFFICE OF

THE CHIEF CONSERVATOR OF FORESTS,

IN MYSORE, BANGALORE-1.

No. B3-62-GFL-505/62-63.

Encls. one

Date 23RD SEPTEMBER, 1964.

MYSORE GOVT. STORES PURCHASE
No. 4652/18
25 SEP 1964
AGRI. & FOREST DEPT. (RECEIPT & ISSUE)

To

The Secretary to Government,

Agriculture and Forest Department,

BANGALORE.

Sub: Assignement of 10 acres of lands in S,N6. 82 of Tiprant to Shri. Bhima Rao of Kalyani, Taluka Humnabad.

Ref: Your letter NO.AFD 41 FGL 62, dated 7.5.1963.

.....

It is reported that the Deputy Commissioner, Bidar under his order dated 2.11.1962 directed the eviation of the party from the area. But in the appeal preferred by the party before the Divisional Commissioner, Gulbarga, the Divisional Commissioner, under his Order NO.R 67 APL 63-64 dated 31.1.1964, has quashed the orders of the Deputy Commissioner, Bidar. A copy of the Order passed by the Divisional Commissioner, ~~Belgaum~~ Gulbarga is enclosed for perusal. Though the party is in legal position of the land, the grant made by the Revenue Department is irregular, because of the fact that the area is a protected Forest. However, the party is in occupation of the land from a long time and his eviction from the land at this distance of time may cause considerable hardship to him. In the circumstances and as the grant of the area to the applicant will not lead to Honey Combing or serious awkward boundary of the forest, there is no objection to ~~exclu-~~ exclude the area from the Forest. The Divisional Forest Officer, Gulbarga is reported to have forwarded the draft notification under Sec.4 of the Hyderabad Forest Act with a view to constitute the S.NO.Under reference as reserved Forest. Hence orders may please be issued to exclude the area from reservation so that the Forest Settlement Officer can take further action in the matter.

Yours faithfully,

Chief Conservator of Forests.

Gs.23/9/64.

IN THE COURT OF THE DIVISIONAL COMMISSIONER GULBARGA.

RA 67 APL 63-64.

PRESENT:

Shri M.S.Swaminathan, IAS,
Divisional Commissioner,
Gulbarga Division, Gulbarga.

APPELLANT: Bhim Rao S/o Tukaram resident of Kalyani,
Taluk Homnabad, Bidar District.

VS.

RESPONDENT: 1. State

2. The Divisional Forest Officer, Gulbarga.

-o-

ORDER. 31.1.1964.

This is an appeal preferred by Bim Rao s/o Tukaram resident of Kalyani against the order of the learned Deputy Commissioner, Bidar dated 2.11.1962 directing the eviction of the Petitioner from the land bearing survey NO. 82 situated in Tiprant village, Homnabad Taluk, Bidar District. The appeal was initially filed before the learned Mysore Revenue Appellate Tribunal on 27.11.1962 and subsequently on 6.4.1963 before this Court.

I have heard the learned Counsel for the appellant, the Divisional Forest Officer, Gulbarga and have perused the connected records.

It is the appellant's contention that survey number 82 of Tiprant village measuring 382 acres and 15 guntas of Tiprant village, Homnabad Taluk was a Parampoke land out of which the appellant was in continuous possession of 10 acres from the year 1952 with the permission of the Revenue authorities. The land had been given to him under the Hyderabad Special Land Loani Rules 1950 on 21.10.1959 and the certificate No.55 in Form 'C' for Land Grant under special Laoni was given to the appellant on 4.3.1961.

It is alleged that without hearing the appellant, the learned Deputy Commissioner, Bidar cancelled the order of assignement on 30.6.1961 on the representation of the Forest Department. The appellant took up the order in appeal before the learned Mysore Revenue Appellate Tribunal which remanded the case to the learned Deputy Commissioner, Bidar for fresh disposal. The learned Deputy Commissioner, Bidar passed an order on 2.11.1962 rejecting the claim of the appellant.

The crux of the learned Deputy Commissioner's order is that he is unable to assign any land out of survery number 82 as there is no Government gairan land available under the control of the Revenue Department. It is argued on behalf of the appellant that a grant once made under the special laoni rules can only be interfered with for specific breach of any of the conditions imposed on the grant and that too after sufficient notice to the grantee.

I see from the order of the learned Deputy Commissioner, Bidar that an area of 10 acres was in fact assigned to the appellant as he belonged to a backward class on the recommendation of the Tahsildar, Homnabad Tq. It is also stated in that order that the matter had been referred to the Forest Department and that nothing had been heard from that Department, for a long time. During the course of the arguments for the appellant, a copy of the letter, the original of which is in Urdu and which has been translated and certified by the learned Advocate appearing for the appellant dated 20.5.1964 addressed by the Divisional Forest Officer, Gulbarga to the Tahsildar, Homnabad Taluk was produced. It is stated in that letter that the Forest Range Officer, Chitguppa has certified that the land survey number 82 is not included in the Forest enclave. That report of the Forest Range Officer to the Divisional Forest Officer was also produced and a translated copy certified by the learned Advocate for

....pto.....

the Appellant is in the file. That report refers to the application of Bhim Rao who was cultivating an extent of 22 acres out of the gairon land in survey number 82 of Tipranth village with the permission of Tahsil Office, Homnabad since 1961. The Forest Range Officer has clearly stated that survey number is not included in the Forest area. The net result of all this is that the appellant had been legally granted the land in question under the Special Laoni Rules. Necessary consultation had been done with the Forest Department and their clearance obtained. It is only when there was a protest by the Forest Range Officer, Bidar in his letter NO.nil dated 19,6.1961 that the question of eviction was taken up and the appellant along with other unauthorised cultivators was sought to be evicted.

At my request, the Divisional Forest Officer, furnished a copy of the Notification under the Hyderabad Forest Act published in the Hyderabad Government Gazette dated 17.11.1955. This Notification seeks to declare the land, giving the details, to be protected Forest with effect from the date of publication of the Notification. The total extent of the area so declared is given as 350 acres and 2 guntas and is called 'Tiprant Protected Forest'. In the body of the Notification there is a maention of an existing cultivator whose rights are protected. It looks as though the rights of the appellant were not ~~xxxxx~~ either properly noticed by the Forest Department or by the Revenue Department or pressed by the individual himself. However, it seem to me that the rights should now be considered in full by the Forest Settlement Officer and protected if possible. The learned Deputy Commissioner's order in the penultimate para also indicates that the exclusion of this portion of land from the Forest will not in any way affect forest operations. However this may be, I find that the cancellation of the grant lawfully made to the appellant for reasons which will not justify such cancellation is void. At the time the Forest Department issued the concerned Notifications either the Revenue Department or the Forest Department should have noticed the non-availability of this land for purposes of creation of the protection Forest unless the rights of the private parties in the land were properly acquired. It is too much to expect from an illeterate cultivator that he should have established his rights before the Forest Department at a time prior to the issue of the declaration notification. This seems to be a clear case in which both the Departments have ignored the interests of an illiterate and poor cultivator. Under the law the grant of the land to the appellant as per Laoni Rules was perfectly in order and cannot be interfered with in the manner now done.

The order of the learned Deputy Commissioner, Bidar denying the land to the appellant is definitely insupportable and is quashed. The learned Deputy Commissioner in his order has stated that the land cannot be assigned to the appellant where-as the land has already been assigned. The order therefore suffers from serious misconception as to the facts also. If the Forest Department feels that this land is so essential for the purpose of its Forest operation it is for them to acquire this land by duly compensating the appellant who has certain vested legal rights in it. Appeal allowed.

Dictated to the Stenographer typescript edited and pronounced in the open court this the 31st day of January, 1964.

.....

Sd/- M.S.Swaminathan,
Divisional Commissioner, Gulbarga.

"TRUE COPY"

CHIEF CONSERVATOR OF FORESTS.

3.23/9/64.

38

Subject: Exclusion of an area of 10 acres - F.S.No.82 of Shyrant - Issue of draft notification under section 4 of the Hyderabad Forest Act.

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PROCEEDINGS OF THE GOVERNMENT OF MYSORE

ORDER NO. AFD 41 FGL 62,
BANGALORE DATED 7-12-

READ

1) G.L.No.AFD 41 FGL 62 dated 2-8-1962

2) Letter No.RS-62 GEL-505/62-63 dated 24-9-1964 of the Chief Conservator of Forests in Mysore, Bangalore.

PREAMBLE:

Government in their letter dated 2-8-1962 has directed th Chief Conservator of Forests that in view of the opinion of the Tribunal, further proceedings for the eviction of the occupants may be stayed and a detailed report should be submitted to Government.

2. The Chief Conservator of Forests in his letter dated 24-9-1964, has reported that the orders passed by the Deputy Commissioner, Bidar has been quashed by the Divisional Commissioner Gulbarga. It is also stated that though the party is in legal position of the land, the grant made by the Revenue Department is irregular, due to the fact that the area, is a protected forest. However, since the party is in possession of the area from a long time and his eviction from the land at this distance of time may cause considerable hard-ship to the party, the Chief Conservator of Forests has requested orders of Government to exclude the area from reservation.

ORDER:

The proposal of the Chief Conservator of Forests is agreed to and he is directed to issue instructions to the Forest Settlement Officer, in this behalf.

By order in the name of the
Governor of Mysore,

J. S. Ramaiya
(J.S.RAMAIYA)
Under Secretary to Government,
Agriculture & Forest Department.

OR
7/12

To

The Chief Conservator of Forests in Mysore, Bangalore

The Revenue Department.

The Weekly Gazette.

hns)

39

Subject: Exclusion of an area of 10 acres - F.S.No.32 of Tiprant - Issue of draft notification under section 4 of the Hyderabad Forest Act.

- - -

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

ORDER NO. AFD 41 FGL 62,
BANGALORE DATED 7-12-64

READ

1) G.L.No.AFD 41 FGL 62 dated 2-8-1962

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ORDER:

The proposal of the Chief Conservator of Forests is agreed to and he is directed to issue instructions to the Forest Settlement Officer, in this behalf.

By order in the name of the
Governor of Mysore.

T.S.Ramaiya
(T.S.RAMAIYA)
Under Secretary to Government,
Agriculture & Forest Department.

CR
7/12

To

The Chief Conservator of Forests in Mysore, Bangalore

The Revenue Department.

The Weekly Gazette.

hns)

Appendix F. [G I]

41

SUBJECT Exclusion of an area of 10 A.C.T.S. No. 82 of Tiptur issue of Sft notified by the H.E.A.,

Diary No. of letter replied to..... .....

Mysore Government Secretariat.

( )

the *196* .

ISSUED

Date of issue 7-12-1964

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No.

To

Sft h.o.

Read:-

1) h.h - No. AFD 41 Flm 62 of 2-8-62

2) Letter No. B3 - 62 - HFL - 505/62-63 of 24-9-64 of the c.c.f

order No. AFD 41 Flm 62 of ——

Preamble:- Govt, in their letter of 2-8-62 has

directed the ccf that in view of the opinion of the Tribunal, further proceedings for the eviction of the occupants may be stayed & a detailed report should be subd to Govt.

The ccf in his letter of 24-9-64 has reported that the orders passed by the DC, Bidar has been quashed ~~the~~ by the Commr., Gulbarga. It is also stated that though the party is in legal position of the land, the grant made by the RD is irregular, due to the fact that the area is

Appendix F. G.– I]

SUBJECT .....

.....

.....

Diary No. of letter replied to..... .....

Mysore Government Secretariat,

( )

the *196* .

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No.

To

a protected for-
er. However, since
the party is in
possn of the
area from a
long time & his
eviction from the
land at this
distance of time
may cause con-
siderable hard-
ship to the party.
Hence the ccp
required

order of Govr., to exclude the area from reservation.

Orders :- The proposal of the CCF is agreed to & he is directed to issue instns to the F.S.O., in this behalf.

B. O. etc

W/S A & F

To
CCF
RD
W/4.

28/1/64.

35
10

Subject: Exclusion of an area of acres - F.S.No.32 of Tiprant - Issue of draft notification under section 4 of the Hyderabad Forest Act.

- - -

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

ORDER NO. AFD 41 FGL 62, BANGALORE DATED 7-12-64

READ

1) G.L.No.AFD 41 FGL 62 dated 2-8-1962

2) Letter No.32-62 GF-SOS/63-63 dated 24-9-1964 of the Chief Conservator of Forests in Mysore, Bangalore.

PREAMBLE:

Government in their letter dated 2-8-1962 has directed the Chief Conservator of Forests that in view of the opinion of the Tribunal, further proceedings for the eviction of the occupants may be stayed and a detailed report should be submitted to Government.

2. The Chief Conservator of Forests in his letter dated 24-9-1964, has reported that the orders passed by the Deputy Commissioner, Bidar has been quashed by the Divisional Commissioner Gulbarga. It is also stated that though the party is in legal position of the land, the grant made by the Revenue Department is irregular, due to the fact that the area, is the a protected forest. However, since the party is in possession of the area from a long time and his eviction from the land at this distance of time may cause considerable hard-ship to the party, ~~Hence~~ the Chief Conservator of Forests has requested orders of Government to exclude the area from reservation.

ORDER:

The proposal of the Chief Conservator of Forests is agreed to and he is directed to issue instructions to the Forest Settlement Officer, in this behalf.

By order in the name of the Governor of Mysore.

O/c

T.S. Ramaiya
(T.S. RAMAIYA)
Under Secretary to Government,
Agriculture & Forest Department.

QR
7/12

To

The Chief Conservator of Forests in Mysore, Bangalore

The Revenue Department.

The Weekly Gazette.

hns)

36

Subject: Exclusion of an area of 10 acres - F.S.No.82 of Tiprant - Issue of draft notification under section 4 of the Hyderabad Forest Act.

- - -

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

ORDER NO. AFD 41 FGL 62, BANGALORE DATED 7-12-64

READ

1) G.L.No.AFD 41 FGL 62 dated 2-8-1962

2) Letter No.B3-62 GFL-305/62-63 dated 24-9-1964 of the Chief Conservator of Forests in Mysore, Bangalore.

PREAMBLE:

Government in their letter dated 2-8-1962 has directed the Chief Conservator of Forests that in view of the opinion of the Tribunal, further proceedings for the eviction of the occupants may be stayed and a detailed report should be submitted to Government.

2. The Chief Conservator of Forests in his letter dated 24-9-1964, has reported that the orders passed by the Deputy Commissioner, Bidar has been quashed by the Divisional Commissioner Gulbarga. It is also stated that though the party is in legal position of the land, the grant made by the Revenue Department is irregular, due to the fact that the area, is ~~the~~ a protected forest. However, since the party is in possession of the area from a long time and his eviction from the land at this distance of time may cause considerable hard-ship to the party, ~~hence~~ the Chief Conservator of Forests has requested orders of Government to exclude the area from reservation.

ORDER:

The proposal of the Chief Conservator of Forests is agreed to and he is directed to issue instructions to the Forest Settlement Officer, in this behalf.

By order in the name of the Governor of Mysore.

T.S.Ramaiya
(T.S.RAMAIYA)
Under Secretary to Government,
Agriculture & Forest Department.

QR
7/12

To

The Chief Conservator of Forests in Mysore, Bangalore

The Revenue Department.

The Weekly Gazette.

hms)

37

Subject: Exclusion of an area of 10 acres - F.S.No.82 of Tiprent - Issue of draft notification under section 4 of the Hyderabad Forest Act.

- - -

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

ORDER NO. AFD 41 FGL 62,
BANGALORE DATED 7-12-64

READ

1) G.L.No.AFD 41 FGL 62 dated 2-8-1962

2) Letter No.B2-62 GFL-505/62-63 dated 24-9-1964 of the Chief Conservator of Forests in Mysore, Bangalore.

PREAMBLE:

Government in their letter dated 2-8-1962 has directed th Chief Conservator of Forests that in view of the opinion of the Tribunal, further proceedings for the eviction of the occupants may be stayed and a detailed report should be submitted to Government.

2. The Chief Conservator of Forests in his letter dated 24-9-1964, has reported that the orders passed by the Deputy Commissioner, Bidar has been quashed by the Divisional Commissioner Gulbarga. It is also stated that though the party is in legal position of the land, the grant made by the Revenue Department is irregular, due to the fact that the area, is ~~the~~ a protected forest. However, since the party is in possession of the area from a long time and his evication from the land at this distance of time may cause considerable hard-ship to the party, ~~Hence~~ the Chief Conservator of Forests has requested orders of Government to exclude the area from reservation.

ORDER:

The proposal of the Chief Conservator of Forests is agreed to and he is directed to issue instructions to the Forest Settlement Officer, in this behalf.

By order in the name of the
Governor of Mysore.

T.S. Ramaiya
(T.S.RAMAIYA)
Under Secretary to Government,
Agriculture & Forest Department.

OR
7/12

To

The Chief Conservator of Forests in Mysore, Bangalore

The Revenue Department.

The Weekly Gazette.

hns)

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Subject: Exclusion of an area of 10 acres - R.S.No.32 of Tiptrant - Issue of draft notification under section 4 of the Hyderabad Forest Act.

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PROCEEDINGS OF THE GOVERNMENT OF MYSORE

ORDER NO. AFD 41 FOL 62, BANGALORE DATED 7-12-64

READ:

1) G.L.No.AFD 41 FOL 62 dated 3-4-1963

2) Letter No.R3-62 C.F.-305/62-63 dated 24-8-1964 of the Chief Conservator of Forests in Mysore, Bangalore.

PREAMBLE:

Government in their letter dated 3-8-1963 has directed the Chief Conservator of Forests that in view of the opinion of the Tribunal, further proceedings for the eviction of the occupants may be stayed and a detailed report should be submitted to Government.

2. The Chief Conservator of Forests in his letter dated 24-8-1964, has reported that the orders passed by the Deputy Commissioner, Bidar has been quashed by the Divisional Commissioner Gulbarga. It is also stated that though the party is in legal position of the land, the grant made by the Revenue Department is irregular, due to the fact that the area is the a protected forest. However, since the party is in possession of the area from a long time and his eviction from the land at this distance of time may cause considerable hard-ship to the party, the Chief Conservator of Forests has requested orders of Government to exclude the area from reservation.

ORDER:

The proposal of the Chief Conservator of Forests is agreed to and he is directed to issue instructions to the Forest Settlement Officer, in this behalf.

By order in the name of the Governor of Mysore.

J.S.Rawaiya
(J.S.RAWAIYA)
Under Secretary to Government,
Agriculture & Forest Department.

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